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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,186	04/18/2006	Anders Hallin	39335	3593
116 7590 04/02/2008 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108				
EXAMINER				
RAHIM, AZIM				
ART UNIT		PAPER NUMBER		
3744				
MAIL DATE		DELIVERY MODE		
04/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,186

Applicant(s)

HALLIN, ANDERS

Examiner

AZIM RAHIM

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CS-100)
- Paper No(s)/Mail Date 12/22/2005, 3/9/2006
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION***Double Patenting***

1. Claims 1-8 of this application conflict with claims 1-8 of Application No. 10/627,177. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

2. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

3. Claims 1-8 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-8, respectively, of Hallin (US 2005/0011222). This is a double patenting rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Schumacher (US 2,728,198) hereinafter Schumacher '198.

Regarding claim 1, Schumacher teaches an absorption refrigerator (figs. 1 and 2) including a cabinet having outer walls (col. 2 lines 7-20) and at least one door (door section shown adjacent to 13) encasing a low temperature storage compartment (2) and a higher temperature storage compartment (3), said compartments being separated by a partition wall (wall between 2 and 3), a device for ice fabrication (col. 2 lines 57-61, freezing trays), and an absorption refrigerating system including an evaporator tube (13) in which a refrigeration medium flows from an upstream end to a downstream end of the evaporator tube, and which evaporator tube comprises a first tube section (10) which is arranged to absorb heat from the low temperature compartment (explicitly shown), a second tube section (9), which is arranged to absorb heat from the higher temperature compartment (explicitly shown) and a third tube section (15) which is arranged to absorb heat from the ice fabrication device (col. 2 line 60), wherein the first, second and third tube sections are connected in series (col. 2 lines 30-32 and 43-50) and the first tube section is arranged upstream of the second tube section (explicitly shown), characterized in that said third tube section is arranged to predominantly absorb heat from the ice fabrication device (col. 2 lines 57-61, heat exchange with freezing trays) by heat conduction (col. 3 line 63) and is arranged downstream of said first tube section (explicitly shown) and upstream of said second tube section (explicitly shown) and in that the ice fabrication device is exposed to

Comment [F1]: Reference number 15 has already been used to identify an ice fabrication device above. You need to properly come up with an ice fabrication device which is different that the section tube 15.

Comment [F2]: Which particular structure is the ice fabrication device that the section tube 15 is drawing heat from?

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air circulating in the low temperature compartment (explicitly shown), wherein means are provided for melting frost generated by humidity in said low temperature compartment and said higher temperature compartment respectively (col. 4 lines 7-25, the control of the running time can affect frost buildup and removal).

Regarding claim 2, Schumacher teaches the limitation of the first and third tube sections being arranged in the low temperature compartment (explicitly shown) and the second tube section being arranged in the higher temperature compartment (explicitly shown).

Regarding claim 3, Schumacher teaches the limitation of the third tube section being arranged in a separate ice fabrication compartment which communicates with the low temperature compartment (explicitly shown where ice evaporator section is arranged in a separate section).

Regarding claim 4, Schumacher teaches the limitation of the upstream end of the third tube section being connected directly to the downstream end of the first tube section (explicitly shown).

Regarding claim 5, Schumacher teaches the limitation of the upstream end of the second tube section being connected to the downstream end of the third tube section (explicitly shown) through a passive gas heat exchange tube section (13), which is arranged inside one of the walls of the cabinet (explicitly shown).

Regarding claim 6, Schumacher teaches the limitation of the first tube section including two non-coaxial tube portions (multiple bent tube portions shown), the axis of which together define a general extension plane of the first tube section (explicitly shown) and the third tube section includes two non-coaxial tube portions (multiple bent tube portions shown), the axis of which together define a general extension plane of the third tube section (explicitly shown), whereby said general extension plane of the first tube section is essentially perpendicular to the general extension plane of the third tube section (portion of tube section 16 is perpendicular to section 15).

Regarding claim 7, Schumacher teaches the limitation of the general extension plane of the first tube section being essentially vertical and generally parallel to the general extension plane of the partition wall (section of 16 is parallel to partition wall disposed between 2 and 3).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schumacher '198 as applied to claim 1 above, and further in view of Schumacher (US 3,803,862) hereinafter Schumacher '862.

Regarding claim 8 Schumacher '198 teaches all the limitations of the claimed invention, but fail to teach the limitation of the ice fabrication device including heating means for effecting partial melting of the ice for facilitating harvesting of the ice.

Schumacher '862 teaches the limitation of providing an ice fabrication device (24) including heating means for effecting partial melting of the ice for facilitating harvesting of the ice (col. 4 lines 50-65).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the refrigerator of Schumacher '198 to include the ice fabrication device including heating means for effecting partial melting of the ice for facilitating harvesting of the ice as taught by Schumacher '862 in order to advantageously automatically dispense ice, thus providing greater convenience for a user.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AZIM RAHIM whose telephone number is (571) 270-1998. The examiner can normally be reached on Monday - Thursday 7am - 3pm EST and Friday 7am - 9:30am EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Jules can be reached on 571-272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AR 3/19/2008

/Frantz F. Jules/
Supervisory Patent Examiner, Art Unit 3744